

STATE OF NEW YORK

8287

IN SENATE

May 6, 2020

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to presumption regarding impairment of health caused by COVID-19 and in relation to sick leave

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general municipal law is amended by adding a new
2 section 207-r to read as follows:

3 § 207-r. Notwithstanding any provision of this chapter or of any
4 general, special or local law to the contrary, and for the purposes of
5 this chapter, any condition of impairment of health caused by COVID-19,
6 resulting in total or partial disability, death, accidental disability
7 or accidental death to any sheriff, undersheriff, deputy sheriff or
8 corrections officer of the sheriff's department of any county, or any
9 member of a police force of any county, city, town or village, or of any
10 district, agency, board, body or commission thereof, or any LIRR police
11 officer as defined in paragraph two of subdivision a of section three
12 hundred eighty-nine of the retirement and social security law, or any
13 paid officer or member of an organized fire company or fire
14 department of a city, town, village or fire district, or emergency
15 medical technician, advanced emergency medical technician or paramedic,
16 whose benefits are provided in and pursuant to such section three
17 hundred eighty-nine, or a detective-investigator or any other investi-
18 gator who is a police officer pursuant to the provisions of the criminal
19 procedure law employed in the office of a district attorney of any coun-
20 ty, or any probation officer of any department, agency or service main-
21 tained by any county or city, or any parole officer as defined by
22 section ten of the correction law, or a peace officer employed by the
23 unified court system or a member of the uniformed correction force of
24 New York city department of correction or of the state or any munici-
25 pality, or police officer employed by the metropolitan transportation
26 authority, or a police officer employed by the port authority of New
27 York and New Jersey or police officer as defined in subdivision thirty-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 four of section 1.20 of the criminal procedure law, or members of the
2 regional state park police, members of the division of law enforcement
3 in the department of environmental conservation, members holding the
4 position of forest ranger in the service of the department of environ-
5 mental conservation, university police officers appointed by the state
6 university as defined in the retirement and social security law whose
7 benefits are provided in and pursuant to section three hundred eighty-
8 three, three hundred eighty-three-a, three hundred eighty-three-b, three
9 hundred eighty-three-c, or three hundred eighty-three-d of the retire-
10 ment and social security law, troopers and trooper investigators, or any
11 supervising fire inspector, fire inspector, fire marshal, or assistant
12 fire marshal where such officer is exposed or comes into contact with
13 COVID-19 and such member test positive for COVID-19, shall be presump-
14 tive evidence that such permanent or partial disability or death (1) was
15 caused by the natural and proximate exposure, not caused by the individ-
16 ual's own negligence and (2) was incurred in the performance and
17 discharge of duty and proximate result of an accident, unless the
18 contrary be proven by competent evidence. Any individual pursuant to
19 this section that is taken ill in the performance of his or her duties
20 so as to necessitate medical or other lawful remedial treatment shall be
21 paid by the municipality or the Long Island Rail Road Company, the port
22 authority of New York and New Jersey or the metropolitan transportation
23 authority by which he or she is employed the full amount of his or her
24 regular salary or wages from such employer until his or her disability
25 arising therefrom has ceased, in addition the municipality or the Long
26 Island Rail Road Company, the port authority of New York and New Jersey
27 or the metropolitan transportation authority shall be liable for fifty
28 percent of all medical treatment and hospital care necessitated by such
29 reason of illness and the state shall be liable for fifty percent.

30 § 2. The general municipal law is amended by adding a new section 92-e
31 to read as follows:

32 § 92-e. Sick leave for officers and employees with COVID-19. 1.(a)
33 Notwithstanding any other law, rule or regulation to the contrary, any
34 sheriff, undersheriff, deputy sheriff or corrections officer of the
35 sheriff's department of any county or any member of a police force of
36 any county, city with a population of less than one million, town or
37 village, or of any district, agency, board, body or commission thereof,
38 or, any police officer whose benefits are provided in and pursuant to
39 section three hundred eighty-three, three hundred eighty-three-a, three
40 hundred eighty-three-b, three hundred eighty-three-c, or three hundred
41 eighty-three-d of the retirement and social security law, troopers and
42 trooper investigators, or any LIRR police officer as defined in para-
43 graph two of subdivision a of section three hundred eighty-nine of the
44 retirement and social security law, or any paid officer or member
45 of an organized fire company or fire department of a city, town,
46 village or fire district, or emergency medical technician, advanced
47 emergency medical technician or paramedic, whose benefits are provided
48 in and pursuant to such section three hundred eighty-nine, or a detec-
49 tive-investigator or any other investigator who is a police officer
50 pursuant to the provisions of the criminal procedure law employed in the
51 office of a district attorney of any county, or probation officers of
52 any department, agency or service maintained by any county or city, or
53 parole officers as defined by section ten of the correction law, or a
54 peace officer employed by the unified court system or a member of the
55 uniformed correction force of New York city department of correction or
56 of the state or any municipality, or police officer employed by the

1 metropolitan transportation authority, or a police officer employed by
2 the port authority of New York and New Jersey or police officer as
3 defined in subdivision thirty-four of section 1.20 of the criminal
4 procedure law, or any supervising fire inspector, fire inspector, fire
5 marshal, or assistant fire marshal who was exposed or came into contact
6 with COVID-19 and such individual tests positive for COVID-19, as
7 defined in section two hundred seven-r of this chapter, shall, after the
8 receipt of a written request for line of duty sick leave, be granted
9 line of duty sick leave commencing on the date that such employee was
10 diagnosed with COVID-19. The individual shall be compensated at his or
11 her regular rate of pay for those regular work hours during which the
12 individual is absent from work due to his or her COVID-19. Such leave
13 shall be provided without loss of an individual's accrued sick leave.

14 (b) A public employer shall not take any adverse personnel action
15 against a public employee regarding the employee's employment because
16 either (i) the employee utilizes, or requests to utilize, sick leave or
17 any other available leave due to COVID-19, or (ii) the employee utilizes
18 or requests to utilize line of duty sick leave provided by this section.

19 (c) For purposes of this section, an "adverse personnel action" means
20 any discipline, including issuing a notice of discipline, discharge,
21 suspension, demotion, penalization, or discrimination against an employ-
22 ee utilizing line of duty sick leave pursuant to paragraph (a) of this
23 subdivision.

24 Nothing in this section shall limit an employer's power pursuant to
25 any other provision of law to discipline an individual by termination,
26 reduction of salary, or any other appropriate measure; to terminate an
27 appointee who has not completed his or her probationary term; and to
28 apply for ordinary or accident disability retirement for an individual.

29 2. (a) Notwithstanding any other law, rule or regulation to the
30 contrary, any sheriff, undersheriff, deputy sheriff or corrections offi-
31 cer of the sheriff's department of any county or any member of a police
32 force of any county, city with a population of one million or more, town
33 or village, or of any district, agency, board, body or commission there-
34 of, any police officer whose benefits are provided in and pursuant to
35 section three hundred eighty-three, three hundred eighty-three-a, three
36 hundred eighty-three-b, three hundred eighty-three-c, or three hundred
37 eighty-three-d of the retirement and social security law, troopers and
38 trooper investigators, or any LIRR police officer as defined in para-
39 graph two of subdivision a of section three hundred eighty-nine of the
40 retirement and social security law, or any paid officer or member
41 of an organized fire company or fire department of a city, town,
42 village or fire district, or emergency medical technician, advanced
43 emergency medical technician or paramedic, whose benefits are provided
44 in and pursuant to such section three hundred eighty-nine, or a detec-
45 tive-investigator or any other investigator who is a police officer
46 pursuant to the provisions of the criminal procedure law employed in the
47 office of a district attorney of any county, or probation officers of
48 any department, agency or service maintained by any county or city, or
49 parole officers as defined by section ten of the correction law who (i)
50 do not receive benefits similar to those provided by this section pursu-
51 ant to a collectively bargained agreement, section 14-122.1 of the
52 administrative code of the city of New York, section 15-108.1 of the
53 administrative code of the city of New York, or other statutory
54 provision and who was exposed or came into contact with COVID-19 and
55 such individual tests positive for COVID-19, as defined in section two
56 hundred seven-r of this chapter, shall, after the receipt of a written

1 request for line of duty sick leave, be granted line of duty sick leave
2 commencing on the date that such employee was diagnosed with COVID-19.
3 The individual shall be compensated at his or her regular rate of pay
4 for those regular work hours during which the individual is absent from
5 work due to his or her COVID-19. Such leave shall be provided without
6 loss of an individual's accrued sick leave.

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8 against a public employee regarding the employee's employment because
9 either (i) the employee utilizes, or requests to utilize, sick leave or
10 any other available leave due to COVID-19, or (ii) the employee utilizes
11 or requests to utilize line of duty sick leave provided by this section.

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13 any discipline, including issuing a notice of discipline, discharge,
14 suspension, demotion, penalization, or discrimination against an employ-
15 ee utilizing line of duty sick leave pursuant to paragraph (a) of this
16 subdivision.

17 Nothing in this section shall limit an employer's power pursuant to
18 any other provision of law to discipline an individual by termination,
19 reduction of salary, or any other appropriate measure; to terminate an
20 appointee who has not completed his or her probationary term; and to
21 apply for ordinary or accident disability retirement for an individual.

22 3. For purposes of this section, "cost" shall mean the number of days
23 of sick leave that must be restored to an officer or employee pursuant
24 to subdivision one or two of this section multiplied by such individ-
25 ual's wage rate at the time that such sick leave for which reimbursement
26 is being sought was taken.

27 4. A request, for line of duty sick leave shall be in writing and
28 include a waiver of the protection afforded to the individual pursuant
29 to the health insurance portability and accountability act to allow
30 disclosure of the individual's exposure or contact with COVID-19 and
31 such individual's positive test for COVID-19 and any medical records
32 concerning such individual's employee's notice of exposure or contact
33 with COVID-19 and such individual's positive test for COVID-19 in the
34 possession of the retirement system in which such individual is a member
35 for the purpose of reviewing, processing and auditing his or her claim
36 for line of duty sick leave. Such waiver shall be in the form required
37 by the retirement system of which he or she is a member, along with the
38 application for line of duty sick leave, with his or her employer.

39 § 3. The state shall reimburse any public authority or municipal
40 corporation of less than one million people for the cost of any line of
41 duty sick leave granted pursuant to this act.

42 § 4. This act shall take effect immediately.